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EXAMINER	
COONEY, J	
ART UN'T	PAPER NUMBER
1207	9
DATE MAILED. 12/16/97	

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

THE PERIOD FOR RESPONSE:

a)  is extended to run \_\_\_\_\_ or continues to run 3 months from the date of the final rejection  
b)  expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due in accordance with 37 CFR 1.192(a).  
 Applicant's response to the final rejection, filed 11/17/97 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1.  The proposed amendments to the claim and /or specification will not be entered and the final rejection stands because:
  - a.  There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - b.  They raise new issues that would require further consideration and/or search. (See Note).
  - c.  They raise the issue of new matter. (See Note).
  - d.  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - e.  They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

2.  Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3.  Upon the filing an appeal, the proposed amendment  will be entered  will not be entered and the status of the claims will be as follows:

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: \_\_\_\_\_

However;

Applicant's response has overcome the following rejection(s): \_\_\_\_\_

4.  The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because nothing unexpected is attributed to applicants' use of blowing agents or dispersing materials. From previous 37 USC 102 rejection, a Markush shows content of NCO contents, and nothing else. The affidavit or exhibit will not be considered because applicants have not shown good and sufficient reasons why it was not earlier filed. NCO content values are easily controlled by factors such as by decreasing or increasing the molecular weight of the polymeric backbone. Applicants' invention step appears to reside in the dispersing of the polymeric backbone. Saponinate materials having low free saponinate monomer contents to utilize their inherent low toxicity. This is known to the prior art.  
Other Line 12 of page 2 of the previous Office action inadvertently refers to rejection under 35 USC 102 as well as 35 USC 103. This was a typographical mistake, and the Office action as a whole clearly maintains the rejection only under 35 USC 103.

*Jodi C*  
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PRIMARY EXAMINER  
Group 1200